



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 23, 1997

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

David R. Dudley  
14 Gardner Hill Road  
Nassau, New York 12123

RE: MUR 4648  
David R. Dudley

Dear Mr. Dudley:

On June 17, 1997, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 432(h)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents and Order to Submit Written Answers must be submitted within 30 days of your receipt of this subpoena and order. Any additional materials or statements you wish to submit should accompany the response to the subpoena and order. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

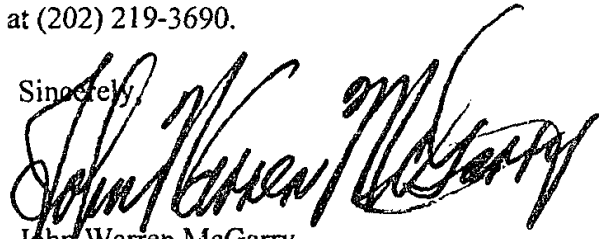
pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



John Warren McGarry  
Chairman

Enclosures  
Subpoena and Order  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

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MUR 4648

**SUBPOENA TO PRODUCE DOCUMENTS**  
**ORDER TO SUBMIT WRITTEN ANSWERS**

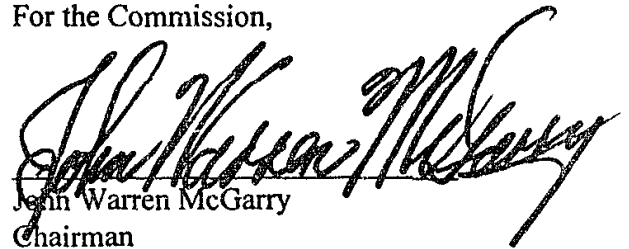
TO: David R. Dudley  
14 Gardner Hill Road  
Nassau, New York 12123

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

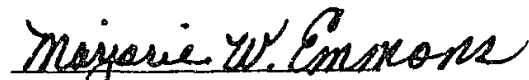
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his  
hand in Washington, D.C. on this 23rd day of June, 1997.

For the Commission,

  
John Warren McGarry  
Chairman

ATTEST:

  
Marjorie W. Emmons  
Secretary to the Commission

Attachments  
Instructions  
Definitions  
Questions and Production of Documents

### **INSTRUCTIONS**

*In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.*

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

**The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.**

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1991 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

### **DEFINITIONS**

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all employees, agents or attorneys thereof.

"Committee" shall mean the New York Republican Federal Campaign Committee.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

"1994 election cycle" shall mean the time period from January 1, 1993 through December 31, 1994.

**QUESTIONS AND PRODUCTION OF DOCUMENTS**

1. Other than the disbursements reported on the Committee's 1994 30-Day Post-General Report, describe each other time when the Committee disbursed \$5,000 or more to you, Jeffrey T. Buley, Mary F. Obwald, Luther Mook and Gregory V. Serio. Include in your description the date and amount of each disbursement.
2. Other than the disbursements reported on the Committee's 1994 30-Day Post-General Report to you, Jeffrey T. Buley, Mary F. Obwald, Luther Mook and Gregory V. Serio, identify all other individuals to whom the Commission disbursed funds in amounts of \$5,000 or more during the 1994 election cycle. Include in your identifications the amount disbursed to each individual and the date on which the funds were disbursed.
3. Identify all persons who were involved in the decisions to disburse \$15,000 each of the Committee's funds to you and Jeffrey T. Buley, \$10,000 each of the Committee's funds to Mary F. Obwald and Gregory V. Serio, and \$5,000 each of the Committee's funds to Luther Mook and the Kings County Republican Committee, as reported on the Committee's 1994 30-Day Post-General Report. Identify all other persons who were aware of these decisions. Identify all persons who were involved in the decisions to disburse funds of the Committee to you, Jeffrey T. Buley, Mary F. Obwald, Luther Mook and Gregory V. Serio, as otherwise described in response to question 1. Identify all other persons who were aware of these decisions.
4. Describe the procedure by which you cashed the check issued to you by the Committee, as reported on the Committee's 1994 30-Day Post-General Report. If the check was exchanged directly for cash, state the name of the bank and the address of the branch at which this exchange occurred. If the check was first deposited into a bank account, identify the owner of the account, and provide the name of the bank at which the account was held and the account number, as well as the address of the bank branch where this transaction occurred.
5. Produce all documents which mention or which otherwise refer or relate to any of the disbursements described in question 3 above. Produce all documents evidencing the cashing or depositing into a bank account of the check issued to you by the Committee, as described in question 3 above. Identify all documents consulted in responding to this Subpoena and Order. Identify all individuals, not otherwise identified in response to any of the above questions, who have knowledge or information related to the answers to the above questions.
6. If you have been employed by the Committee in any capacity, state each of the positions held by you. Describe each of your duties in each position.

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: David R. Dudley

MUR: 4648

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).

**A. Applicable Law**

Pursuant to 2 U.S.C. § 432(h)(1), no disbursement may be made by a political committee in any form other than by check drawn on the committee's account at its designated campaign depository, except for disbursements of \$100 or less from a petty cash fund. The Commission has previously found reason to believe that individuals other than the treasurer of the committee in question have violated 2 U.S.C. § 432(h)(1).

**B. Analysis**

The New York Republican Federal Campaign Committee ("Committee") initially reported a disbursement of \$15,000 on its 1994 30-Day Post-General Report to David R. Dudley as for "election day expenses." The use of the phrase "election day expenses" is not a sufficient description for reporting the purpose of a disbursement, pursuant to Commission regulations. On April 24, 1995, the Committee filed an amended 1994 30-Day Post-General Report, on which it changed the purpose for the disbursement to Mr. Dudley as "GOTV - Travel Expense Reimbursement and Catering Costs."



According to information in the Commission's possession, at the time of the payment, Mr. Dudley was Chairman of the Rensselaer County Republican Party. It appears that he is primarily identified with the Committee in his professional job capacity and not as a campaign activist. Thus, it seems unlikely that \$15,000 would be given to him for "GOTV - Travel Expense Reimbursement and Catering Costs" to compensate him for services he provided.

Moreover, information in the Commission's possession suggests that the check to Mr. Dudley was cashed and the cash was distributed as "walking around money." If this occurred, then the actual recipients of the funds are unknown. It is possible that the cash was distributed in amounts of \$100 or more. A check in the amount of \$15,000 is unlikely to have come from a petty cash account.

Therefore, as a result of his apparent role in distributing cash on behalf of the Committee, after having obtained the cash from a Committee check, there is reason to believe that David R. Dudley violated 2 U.S.C. § 432(h)(1).